

## **EXHIBIT W**

289

1                   UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF MASSACHUSETTS  
3                   VOLUME II  
4   IN RE: PHARMACEUTICAL : MDL NO. 1456  
5   INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION:  
6   PRICE LITIGATION         : 01-CV-12257-PBS  
7                   :  
8   THIS DOCUMENT RELATES TO :  
9   U.S. ex rel. Ven-A-Care of :  
10   the Florida Keys, Inc. v. :  
11   Abbott Laboratories, Inc. :  
12   No. 06-CV-11337-PBS       :  
13                   - - -  
14                   Continuation of the videotaped  
15   deposition of ROBERT VITO was taken, pursuant  
16   to notice, at MORGAN LEWIS & BOCKIUS, LLP,  
17   1701 Market Street, Philadelphia,  
18   Pennsylvania, on Wednesday, June 20, 2007,  
19   beginning at 8:43 a.m., before M. Kathleen  
20   Muino, Professional Shorthand Reporter, Notary  
21   Public; Michael Hunterton, Certified Legal  
22   Video Specialist, there being present:

Vito, Robert 6-20-2007

1 paper files from that 1997 report.

2 A. I said I -- I -- I was aware of it. I  
3 don't know exactly when I became aware of it.

4 Q. Earlier I -- I believe you testified  
5 that your best recollection is that you think you  
6 learned about the qui tam case two or three years  
7 ago?

8 A. I --

9 MR. NEAL: Objection as to form.

10 THE WITNESS: I -- I -- I think -- I  
11 think that that was not -- if you go back and look,  
12 I think I said that I believe I remember that an  
13 investigator called me about it some time ago and I  
14 didn't know the exact date of that.

15 BY MR. TORBORG:

16 Q. What about the information from  
17 Ven-A-Care -- that Ven-A-Care provided was  
18 confidential?

19 A. Well, I -- they gave us pricing  
20 information from various sources and we -- before  
21 any pricing information is given out, we have to  
22 check to make sure that it's not treated as

605

1 proprietary information by the -- by the companies.

2 Q. And was -- was it just catalogs that  
3 they provided you?

4 A. They gave us catalogs as well as  
5 sometimes they had faxes in which they would call  
6 the company and ask the company to provide them  
7 with the most current price. They also had price  
8 specials that were being advertised to them and  
9 they would share that with us as well. There are  
10 multiple different ways that we obtained the  
11 pricing. We also had access to a couple of their,  
12 such as Florida Infusion and other places.

13 Q. One last document for today and then  
14 we'll -- we'll wrap up.

15 Exhibit Abbott 054 bears the Bates Nos.  
16 HHD009-0150. It appears to be an article from  
17 Eli's Home Care Week.

18 And, Mr. Vito, I believe this was a document  
19 that, again, was contained in the working paper  
20 files for that 1997 report.

21 A. Either that or my own files.

22 Q. Okay. Do you recall this document?